PROVINCE OF SASKATCHEWAN

08-09

ANNUAL REPORT

MINISTRY OF JUSTICE AND ATTORNEY GENERAL

Law Reform Commission
of Saskatchewan

Table of Contents

Letters of Transmittal 3

Governing Legislation and Duties 4

The Commissioners and Staff 5

The Commission's Activities 2008-09 6

Legislation Introduced 6
Citation of the Commission's Reports 6
Final Reports Issued in 2008-09 6
Current Projects 6
The Commission's Financial Information 8

Management's Responsibility for the Financial Statements 9

Financial Statements 10

Letters of Transmittal

His Honour the Honourable Dr. Gordon L. Barnhart
Lieutenant Governor of Saskatchewan

May it Please Your Honour:

I have the honour of submitting the Annual Report of the Law Reform Commission of Saskatchewan for the fiscal year ending March 31, 2009.

D R morgan

Don Morgan, Q.C.
Minister of Justice and Attorney General

The Honourable Don Morgan, Q.C.
Minister of Justice and Attorney General

Dear Sir:

I have the honour of submitting the Annual Report of the Law Reform Commission of Saskatchewan for the fiscal year ending March 31, 2009.

Ms. Kathleen Robertson
Chair

Governing Legislation and Duties

The Commission

The Law Reform Commission of Saskatchewan was established by *An Act to Establish a Law Reform Commission*, which was proclaimed in force in November 1973.

The Commission began functioning in February 1974.The current legislation governing the Commission is *The Law Reform Commission Act*, R.S.S. 1978, c. L-8; as amended by S.S. 1983, c. 11; and S.S. 1986-87-88, c. 44.

The Commission's Duties

The Law Reform Commission Act sets out the Commission's duties:

"The commission shall take and keep under review all the law of the province, including statute law, common law and judicial decisions, with a view to its systematic development and reform, including the codification, elimination of anomalies, repeal of obsolete and unnecessary enactments, reduction in the number of separate enactments and generally the simplification and modernization of the law, and for that purpose shall:

(a) receive and consider any proposals for the reform of the law that may be made to it by the Minister of Justice;

(b) prepare and submit to the Minister of Justice from time to time programs for the examination of different branches of the law with a view to their reform and shall recommend that an agency, whether the commission or a committee thereof or other body, carry out the examination;

(c) undertake, at the request of the Minister of Justice or pursuant to recommendations of the commission approved by the Minister of Justice, the examination of particular branches of the law and the formulation, by means of draft bills or otherwise, of proposals for reform therein;

(d) enter into agreements, with the approval of the Minister of Justice, with other organizations for law reform for the purposes of attaining the aims of the commission."

Conduct of the Commission's Duties

In addition to proposals for reform that may be made to it by the Minister of Justice, the Commission considers project proposals that originate from a number of other sources. These sources include the judiciary, the legal profession, other professional organizations, the public generally, the Commission's Director of Research, and the Commissioners themselves.

After determining that it will proceed with a proposal, the Commission usually prepares a consultation paper that it circulates publicly via its website and directly to affected groups. It solicits input and, following receipt of that input, prepares and issues a final report to the Minister of Justice and Attorney General.

The Commission is a member of the Federation of Law Reform Agencies of Canada and participates in the work of the Uniform Law Conference of Canada.

The Commissioners and Staff

The Commissioners and Staff

Commissioners

The Law Reform Commission Act provides that the Commission shall be composed of not less than three members appointed by the Lieutenant Governor in Council, and that the Lieutenant Governor in Council shall designate one of the members as chairman.

Commissioners as at March 31, 2009:

- Ms. Kathleen Robertson, Chair, Saskatoon
- Mr. Kenneth P.R. Hodges, Q.C., Regina
- Professor Michaela Keet, College of Law University of Saskatchewan, Saskatoon
- Ms. Susan Amrud, Q.C., Saskatchewan Ministry of Justice and Attorney General, Regina
- The Honourable Georgina R. Jackson, Justice of the Court of Appeal for Saskatchewan, Regina
- Ms. Carole Lavallee, lay Commissioner, Cowessess First Nation

Commissioners as at April 1, 2008:

- Ms. Merrilee Rasmussen, Q.C., Chair, Regina
- Mr. Kenneth P.R. Hodges, Q.C., Regina
- Professor Michaela Keet, College of Law, University of Saskatchewan, Saskatoon
- Mr. Alan McIntyre, a practising lawyer, Regina
- Ms. Susan Amrud, Q.C., of the Saskatchewan Ministry of Justice and Attorney General, Regina
- Ms. Sarah Buhler, a practising lawyer, Saskatoon
- The Honourable Georgina R. Jackson, Justice of the Court of Appeal for Saskatchewan, Regina
- Ms. Carole Lavallee, lay Commissioner, Cowessess First Nation
- Ms. Susan Bates, lay Commissioner, Saskatoon

Staff

Director of Research,
Mr. Michael Finley, Saskatoon

Previous Members of the Commission

- Professor Brian A. Grosman, Q.C. (Chair 1974-78)
- Professor R.C.C. Cuming, Q.C. (Chair 1978-82)
- Dr. D.A. Schmeiser, Q.C. (Chair 1982-87)
- Mr. Dale Linn, Q.C. (Chair 1987-92)
- Mr. Kenneth P.R. Hodges, Q.C. (Chair 1992-00) and still a Commissioner
- The Honourable E.D. Bayda, Q.C. (Former Chief Justice of Saskatchewan) (1974-76)
- Mr. George J.D. Taylor, Q.C. (1974-82)
- The Honourable Marjorie A. Gerwing, Justice of the Court of Appeal for Saskatchewan (1976-92)
- Mr. Gordon J. Kuski, Q.C. (1982-92)
- The Honourable Gene Ahne Smith, Justice of the Court of Appeal for Saskatchewan (1992-98)
- Ms. Gailmarie Anderson (1992-01)
- The Honourable Diane Morris, Judge of the Provincial Court of Saskatchewan (1992-02)
- Mr. Douglas Moen, Q.C. (2000-02)
- The Honourable Robert D. Laing, Chief Justice of the Court of Queen's Bench (2003-06)

The Commission's Activities 2008-09

Legislation Introduced

One mark of success for a law reform commission is that its recommendations have been implemented as new or amended legislation. During 2008, the following legislation, based on recommendations from the Law Reform Commission, was introduced:

The Trustee Act, introduced in the Legislature as bill 52 in the 2008 sitting;

The Administration of Estates Amendment Act, introduced in the Legislature as bill 20 in the 2007-08 sitting, and came into force on November 1, 2008.

Citation of the Commission's Reports

Another mark of success for a law reform commission is that its reports have been referred to in decisions of the courts and in other publications.

The Commission's reports and other publications continue to be frequently referred to in decisions of the courts in Saskatchewan and elsewhere in Canada and the Commonwealth, and in the reports of other law reform agencies. A search of all reported Canadian decisions found that the Commission's work has been referred to in a total of 72 reported decisions, including 47 Saskatchewan decisions and three Supreme Court of Canada decisions. In 2007, Commission reports were referred to in three reported Saskatchewan decisions and one reported British Columbia Supreme Court decision.

The Commission also has a strong presence on the Internet, being referred to on 39,600 web pages.

In December 2007, the Ombudsman issued a special report entitled *Hearing Back: Piecing Together Timeliness in Saskatchewan's Administrative Tribunals*. The Ombudsman looked at best practices in administrative tribunals around the world and, based on those practices, made 27 recommendations for Saskatchewan's tribunals. The Ombudsman's Recommendation #9 was that Tribunals adopt the principles of the Saskatchewan Law Reform Commission's Model Code of Procedure for Administrative Tribunals.

Final Reports Issued in 2008-09

Enduring Powers of Attorney

An enduring power of attorney is the exercise of a power of attorney when the person who has conferred the power loses the mental capacity to manage his or her own property and affairs. In 2003, the law reform agencies in British Columbia, Alberta, Saskatchewan, and Manitoba, working together as a consortium known as the Western Canada Law Reform Agencies (WCLRA), began studying the harmonization of certain key provisions relating to enduring powers of attorney. They considered their formal recognition, the duties of the attorneys appointed under them, and safeguards against their misuse. The WCLRA issued its final report on enduring powers of attorney in March 2008, and the Commission released its report later in 2008.

Current Projects

Administrative Penalties

In 2007, the Commission approved research on administrative penalties, which are one means by which regulatory legislation is enforced. They are monetary penalties assessed and imposed by a regulator without recourse to a court or independent administrative tribunal. A consultation paper will address notice and disclosure requirements, hearing requirements, and rights of appeal. The Commission expects to release it and obtain input in 2009.

Appeals from Statutory Powers of Decision

In 2007, the Commission also approved a project on appeals from statutory powers of decision. The Commission is preparing a consultation paper dealing with various issues relating to appeals to the courts from the decisions made by officials under statutory authority. The Commission will address whether or not appeals should be available from all statutory decisions, including whether, and when, appeals should be permitted on the merits, rather than on law and jurisdiction. They will also address appeal procedures. It is anticipated that the consultation paper will be circulated in 2009.

Civil Rights in Special Care Homes

Professor Douglas Surtees of the College of Law, University of Saskatchewan, was commissioned in 2007 to conduct a study of civil rights in Saskatchewan special care homes. He is conducting his study by gathering information about the experiences of residents of those facilities. It is anticipated that his research findings will be made to the Commission during 2009.

Commercial Tenancies

In May 2008, the Commission undertook to prepare a consultation paper on commercial tenancies, a subject currently governed by *The Landlord and Tenant Act*. This legislation is largely a compilation of English legislation from the nineteenth century. Since then, residential tenancies have been removed from the scope of *The Landlord and Tenant Act*. Otherwise, the Act has seen little change. The Commission's goal is to provide a new legislative framework that better reflects modern needs and practices. It is expected that a consultation paper will be released for comment in 2009.

Corporate Trustees

The Commission issued a discussion paper in 2007 that examined the law governing corporate trustees and fiduciaries and asked whether the monopoly on trustee services currently possessed by trust companies is still necessary. It is expected that consultations will be completed and a final report released in 2009.

Court Costs

In 2009, the Commission began examining the matter of court costs as part of a larger issue of access to justice. The Commission will solicit the assistance of an expert panel of members of the legal profession and the judiciary, to help determine the extent to which awards of court costs should compensate for the costs of litigation.

Crown Immunity

In 2008, the Commission undertook to prepare a consultation paper on the subject of Crown immunity. Although *The Proceedings Against the Crown Act* allows the government of Saskatchewan and government officials to be sued in court in the same manner as ordinary citizens, Crown immunity continues to exist under various other statutory provisions. In particular, *The Interpretation Act* creates a presumption that no Act binds the Crown unless the Act provides otherwise. The consultation paper, expected to be released in 2009, will discuss and seek input on the presumption and on proposals for eliminating it.

Fraudulent Conveyances and Preferences

The Commission is participating with the Uniform Law Conference of Canada on a project to revise the law on fraudulent conveyances and preferences. Professor Tamara Buckwold, of the University of Alberta Law College, presented a report to the Uniform Law Conference of Canada in 2006. In 2007, she delivered a report respecting fraudulent conveyances, including policy considerations and issues for determination in reforming the law. In 2008, a report respecting fraudulent preferences was completed. A Working Group, chaired by Professor Buckwold, is currently preparing recommendations for reform of the law.

Needy Persons Certificates and Fee Waivers

Pro Bono Law Saskatchewan and Community Legal Assistance Services for Saskatoon Inner City (CLASSIC) have requested the Commission to consider a project that focuses on the administration of Needy Persons Certificates and, more broadly, access to court and tribunal fee waivers for indigent members of the public. A project proposal is being drafted for consideration in 2009.

Renewing The Privacy Act

In October 2008, the Commission undertook to prepare a consultation paper on *The Privacy Act*. The paper will discuss increased concerns about privacy due to technological change, and will seek input on broadening the tort of invasion of privacy. It is expected that this consultation paper will be issued in 2009.

Vaccination and the Law

The Commission's September 2007 consultation paper resulted in a number of responses in the spring of 2008. The Commission's final report on Vaccination and the Law will address compensation for adverse effects of vaccination, informed consent and refusal, and the reporting of adverse effects. The final report will be issued in 2009.

The Commission's Financial Information

Financial support for the Commission in 2008-09 came from matching grants of $60,000 from each of the Province of Saskatchewan, and the Law Foundation of Saskatchewan.

The Commission pays Commissioners, other than the judicial and provincial government representatives, for each day of work they do for the Commission. Commissioners are paid $155 per day and the Chair is paid $235 per day.

The Director of Research is employed at a salary of $70,000 per annum.

Management's Responsibility for the Financial Statements

Management is responsible for the integrity of the financial information reported by the Law Reform Commission of Saskatchewan. Fulfilling this responsibility requires the preparation and presentation of financial statements and other financial information in accordance with Canadian generally accepted accounting principles. These recommendations are consistently applied, with any exceptions specifically described in the financial statements.

The accounting systems used by the Commission include an appropriate system of internal controls to provide reasonable assurance that:

- Transactions are authorized;
- The Commission's assets are properly kept, and financial reports are properly monitored, to ensure reliable information is provided for preparation of financial statements and other information; and
- The accounts are properly kept, and financial reports are properly monitored, to ensure reliable information is provided for preparation of financial statements and other financial information.

To ensure management meets its responsibilities for financial reporting and internal control, the members of the Law Reform Commission of Saskatchewan discuss audit and reporting matters with representatives of management at regular meetings. The members of the Commission have also reviewed the financial statements with representatives of management.

The Provincial Auditor of Saskatchewan has audited the Law Reform Commission of Saskatchewan's statement of financial position as at March 31, 2009, and the related statements of operations and changes in net assets and cash flows for the year then ended. The Provincial Auditor's responsibility is to express an opinion on the fairness of management's financial statements. The Auditor's Report outlines the scope of the audit and the Provincial Auditor's opinion.

Financial Statements

The financial statements on the following pages provide an account of the financial activities of the Law Reform Commission of Saskatchewan for the fiscal year ended March 31, 2009.

LAW REFORM COMMISSION OF SASKATCHEWAN

FINANCIAL STATEMENTS

For the Year Ended March 31, 2009

Provincial Auditor Saskatchewan

1500 Chateau Tower
1920 Broad Street
Regina, Saskatchewan
S4P 3V2

Phone: (306) 787-6398
Fax: (306) 787-6383
Web site: www.auditor.sk.ca
Internet E-mail: info@auditor.sk.ca

SASKATCHEWAN

AUDITOR'S REPORT

To the Members of the Legislative Assembly of Saskatchewan

I have audited the statement of financial position of the Law Reform Commission of Saskatchewan as at March 31, 2009 and the statements of operations and changes in net assets and cash flows for the year then ended. The Commission's management is responsible for preparing these financial statements for Treasury Board's approval. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at March 31, 2009 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Regina, Saskatchewan
June 18, 2009

Fred Wendel, CMA, CA
Provincial Auditor

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF FINANCIAL POSITION
As at March 31

	2009	2008
ASSETS		
Current		
Cash	$ 44,466	$ 21,947
Short-term investments (Note 3)	100,000	100,000
Accounts receivable	13	1,339
Prepaid expense	1,436	1,458
Total Assets	$ 145,915	$ 124,744
LIABILITIES AND NET ASSETS		
Current Liabilities		
Accounts payable and accrued liabilities	$ 341	$ 2,297
Net Assets		
Unrestricted net assets	145,574	122,447
Total Net Assets (Statement 2)	145,574	122,447
Total Liabilities and Net Assets	$ 145,915	$ 124,744

(See accompanying notes to the financial statements)

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF OPERATIONS AND CHANGES IN NET ASSETS
Year Ended March 31

	Budget	2009	2008
Revenue			
Ministry of Justice and Attorney General grant	$ 60,000	$ 60,000	$ 60,000
Law Foundation grant (Note 5)	60,000	60,000	60,000
Interest and miscellaneous	---	1,794	3,921
	120,000	121,794	123,921
Expenses			
Salaries and employee benefits	78,700	73,687	74,415
Consulting fees	---	---	13,000
Conference and travel expense	12,730	3,284	10,413
Commissioners' honoraria	10,300	6,514	7,340
Professional services	---	1,010	7,280
Office supplies and services	13,800	11,537	5,508
Professional fees	---	1,734	1,593
Miscellaneous	---	901	668
	115,530	98,667	120,217
Excess of revenues over expenses	$ 4,470	23,127	3,704
Net assets, beginning of year		122,447	118,743
Net assets, end of year		$ 145,574	$ 122,447

(See accompanying notes to the financial statements)

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF CASH FLOWS
Year Ended March 31

	2009	2008
Cash flows from (used in) operating activities		
Ministry of Justice and Attorney General grant	$ 60,000	$ 60,000
Law Foundation grant	60,000	60,000
Interest received	2,810	3,608
Cash paid to suppliers and employees	(100,291)	(122,055)
Cash provided by operating activities	22,519	1,553
Cash flows from (used in) investing activities		
Purchase of short-term investments	(100,000)	(100,000)
Proceeds from disposal and redemption of investments	100,000	100,000
Cash used in investing activities	---	---
Increase in cash	22,519	1,553
Cash, beginning of year	21,947	20,394
Cash, end of year	$ 44,466	$ 21,947

(See accompanying notes to the financial statements)

LAW REFORM COMMISSION OF SASKATCHEWAN
NOTES TO THE FINANCIAL STATEMENTS
March 31, 2009

1. Incorporation

The Law Reform Commission Act was amended effective November 6, 1987. At that date the Commission became a body corporate and continued the operations of the Law Reform Commission of Saskatchewan.

The purpose of the Commission is to review all the laws of the Province with a view to its systematic development and reform and generally the simplification and modernization of the law.

2. Significant Accounting Policies

These financial statements have been prepared in accordance with Canadian generally accepted accounting principles and include the following significant accounting policies:

a) Revenue Recognition

The Commission follows the deferral method of accounting and recognizes unrestricted contributions as revenue when received or receivable.

b) Financial Instruments

Classification

The Commission's financial instruments and their classification are as follows:

Financial Instrument	Classification
Cash	Held for trading
Short-term investments	Held for trading
Accounts receivable	Loans and receivables
Accounts payable and accrued liabilities	Other financial liabilities

Held for trading financial assets and liabilities are measured at fair value and changes in their fair value are recognized in the Statement of Operations and Changes in Net Assets. Transaction costs are expensed as incurred for financial instruments classified as held-for-trading. Loans and receivables and other financial liabilities are measured at amortized cost. Due to their short term nature, the amortized cost of these instruments approximates their fair value.

Significant terms and conditions

There are no significant terms and conditions related to the financial instruments that may affect the amount, timing and certainty of future cash flows.

Interest rate risk

The Commission is exposed to interest rate risk when the value of its financial instruments fluctuates due to changes in market interest rates.

The Commission does not have any long-term investments that may be affected by market pressures.

The Commission's receivables and payables are non-interest bearing

Credit risk

The Commission is exposed to credit risk from potential non-payment of accounts receivable or investment income and principal.

The Commission rarely has accounts receivable. Most of the Commission's receivables are from provincial agencies and commission members; therefore credit risk is minimal.

All investments are purchased from and held with major banks; therefore, credit risk for investments and related accrued interest receivable is minimal.

c) Use of estimates

The preparation of financial statements in accordance with Canadian generally accepted accounting principles require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the period. These estimates are reviewed periodically, and, as adjustments become necessary, they are reported in earnings in the period in which they become known.

3. Short-term Investments

Short-term investments consist of a guaranteed income certificate with an effective interest rate of 0.4% (2008 – 3.8%).

4. Related Party Transactions

Included in these financial statements are transactions with various Saskatchewan Crown corporations, ministries, agencies, boards and commissions related to the Commission by virtue of common control by the Government of Saskatchewan and non-Crown agencies subject to joint control and significant influence by the Government of Saskatchewan (collectively referred to as related parties).

Routine operating transactions with related parties are recorded at agreed upon exchange amounts and settled under normal trade terms.

The Commission contracted for accounting and administrative services from relatives of the former chairperson, whose term ended on December 3, 2008, totalling $1,486 (2007-08 - $2,056).

Other related party transactions at year-end are as follows:

	2009	2008
Operating revenues		
Ministry of Justice and Attorney General	$ 60,000	$ 60,000
Queen's Printer	128	191
Operating expenditures		
Workers' Compensation Board	---	100

In addition, the Commission pays Provincial Sales Tax to the Ministry of Finance on all its taxable purchases. Taxes paid are recorded as a part of the cost of those purchases.

5. Law Foundation Grant

The Commission received a grant in 2008-09 from the Law Foundation of Saskatchewan for $60,000 (2007-08 – $60,000).